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November 9, 2023

U.S. Magistrate Judge Taryn A. Merkl
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: EBIN New York, Inc. v. SIC Enterprise, Inc.,
Case No. 1:19-cv-01017-PKC-TM**

Dear Judge Merkl:

This letter is submitted under sections 3.C-D of Judge Chen's Individual Practices and Rules and concerns defendant SIC Enterprise, Inc.'s ("SIC") pending Motion for Attorneys' Fees (ECF 159-160) which has been referred to your Honor. Plaintiff EBIN New York, Inc. ("EBIN") has filed an appeal to the Second Circuit from the granting of summary judgment in favor of defendant. Based on a line of at least eight trial court decisions in the Second Circuit, EBIN requests that SIC's fee motion be deferred pending the outcome of that appeal. SIC opposes EBIN's request to defer the fee motion pending EBIN's appeal.

Plaintiff has conferred with counsel for defendant and the parties have agreed on the following expedited schedule on plaintiff's request to defer SIC's fee motion: Plaintiff will serve its moving papers on SIC today (November 9). SIC will serve its opposing papers seven days later on November 16. Plaintiff will serve its reply on November 20, at which time the parties will file their motion papers with the Court per Judge Chen's preferences. At present our response to the fee motion is due on December 4. In the event your Honor decides not to defer SIC's fee motion pending our appeal, our motion papers will include a request to reset the December 4 filing to a date 60 days after your Honor resolves EBIN's motion to defer, in view of this pending request, our work on the pending appeal and most particularly the untimely death of plaintiff's lead counsel, Anthony Meola on August 26, 2023.

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A proposed Order setting out the agreed expedited briefing schedule is attached.

Respectfully,

/s/ *Robert N. Feltoon*

Robert N. Feltoon

RNF:sa